

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

INSTITUTE FOR DISABILITIES RESEARCH)
AND TRAINING, INC.,)
a Maryland Corporation)
)
 Plaintiff, Counter-Defendant)
) C.A. No. 05-176
v.)
)
WAL-MART STORE, INC.,)
a Delaware Corporation,)
)
 Defendant, Counter-Plaintiff)

COUNTER-DEFENDANT'S REPLY TO COUNTERCLAIM

Institute for Disabilities Research and Training, Inc. (“IDRT”), counter-defendant, by its attorneys, Morris, Nichols, Arsh and Tunnell; hereby replies to defendant/counter-plaintiff Wal-Mart Stores, Inc.’s (“Walmart”) counterclaim as follows:

1. IDRT lacks knowledge sufficient to admit or deny the allegations of this paragraph.
2. Admitted.
3. Admitted.
4. IDRT lacks knowledge sufficient to admit or deny whether Walmart is basing its counterclaim on the “Development Agreement,” but admits that IDRT’s complaint is based on the Development Agreement.
5. Paragraph 5 of the Petition states a legal conclusion to which no response is required.

6. IDRT admits that portion of paragraph 6 which characterizes the Development Agreement and which is identified as "(1)"; but it denies the allegations in "(2)" that Walmart compensated IDRT for such services.

7. Admitted that paragraph 7 correctly recites a portion of the Development Agreement and respectfully refers the Court to the Development Agreement for its complete contents.

8. Admitted.

9. IDRT neither admits nor denies this characterization of the "Revised Final Invoice" attached to the complaint, as the "Revised Final Invoice" speaks for itself; nevertheless, IDRT admits that Walmart was entitled to and given credit in the amount of \$50,000 which equals the amount of the deposit in the Development Agreement.

10. Denied.

FIRST AFFIRMATIVE DEFENSE

The counterclaim fails to state a claim upon which relief can be granted.

WHEREFORE, IDRT requests that counterclaim be dismissed with prejudice and that IDRT be awarded its costs and attorney fees with respect to time, costs and expenses incident to defending the counterclaim.

MORRIS, NICHOLS, ARSHT & TUNNELL

/s/ PATRICIA R. UHLENBROCK

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August 22, 2005